

ROCKY MOUNTAIN NATURAL GAS CO., INC.

IBLA 81-271

Decided May 26, 1981

Appeal from determination of charges for communication site right-of-way by Colorado State Office, Bureau of Land Management. C 22607  
Affirmed.

1. Appeals -- Rights-of-Way: Generally -- Rules of Practice: Appeals: Statement of Reasons

An appeal from an appraisal of a communication site right-of-way will not be accorded favorable consideration where it does not show with some particularity adequate reason for appeal and support the allegations with evidence showing error.

APPEARANCES: Lester D. Sitter, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Rocky Mountain Natural Gas Co., Inc., hereinafter appellant, has appealed from a decision of the Colorado State Office, Bureau of Land Management (BLM), dated December 15, 1980. The decision stated that pursuant to 43 CFR 2803.1-2 (45 FR 44533, July 1, 1980), payment of fair market value was required for use and occupancy of the public lands. The decision further stated that the aforementioned regulation also provided that rental fees be adjusted whenever necessary to reflect current fair market value as a result of reappraisal, and that it requires reappraisal every five years. Appellant was informed that as a result of a reappraisal the rental charge for right-of-way C-22607 had been determined to be \$1,200 per year, to be paid on or before January 1, beginning in 1982 and each ensuing year for the remainder of the term of the grant or until notification of a revised rental amount.

[1] In its notice of appeal dated January 15, 1980, appellant, through its general attorney, states in part:

The reason for such appeal is that the amount of the increase in fee order by the decision is excessive, and is not related to the fair market value of the land involved, which is a rectangular tract whose dimensions are 100 feet by 100 feet and which is inaccessible except across private land, which access must be separately contracted for with the landowners.

The mere fact that appellant thinks the appraised charge is excessive does not demonstrate that the appraisal is wrong. Nor was error in the reappraisal demonstrated by the fact that the grant involved was 100 by 100 feet and accessible only by crossing private land. The appraisal was based on a market data approach comparing appellant's communication site with other communication sites deemed comparable, with adjustments for differences, including the size and inferior legal and physical access of appellant's grant. The appraisal report expressly takes into account that access to the site crosses two privately owned parcels. It is the obligation of an appellant to show error. Therefore, where a statement of reasons does not with some particularity show adequate reason for appeal and support the allegations with evidence showing error, the appeal cannot be afforded favorable consideration. Valley Mobile Communications, Inc. 38 IBLA 359 (1978); United States v. Richard and Beverly Weigel, 26 IBLA 183 (1976). See also Park Center Water Irrigation and Reservoir Co., 28 IBLA 368, 84 I.D. 87 (1977); Four States Television, Inc., 32 IBLA 205 (1977). Cf. James G. Macy, 26 IBLA 191 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

Anne Poindexter Lewis  
Administrative Judge

